

## **BILL ANALYSIS**

H.B. 3585  
By: Gallego  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current law allows a justice or municipal court judge to enter a deferred disposition on a plea of guilty or nolo contendere and on the payment of court costs in a misdemeanor case punishable by fine only. As part of the deferred disposition, the court may order the defendant to meet certain conditions, including serving hours of community service, making restitution, and avoiding further criminal actions. At the conclusion of the deferral period, the court may impose a special fee on dismissal of the complaint if the defendant complied with the terms of the order. A conviction may be entered and a fine may be assessed if the defendant does not comply with the terms of the order. The auditor's office has determined that currently the only costs that may be collected at the initiation of a deferred disposition are court costs. Many defendants desire to pay the special fee at the time of their plea, rather than wait until the end of the deferral period to pay the special fee, which necessitates another transaction. This second transaction expends court resources and the defendant's time. Currently, the court may accept the payment only if it is placed in a bond account until the end of the deferral period, a sometimes cumbersome procedure. The deferral period typically ends three months after the defendant's plea, leading some defendants to forget to pay the special fee. In these cases, the court must conduct a show-cause hearing and require the defendant to appear in court, further expending court resources.

H.B. 3585 permits a court to collect a special fee at the time of the order of deferral of further proceedings, thereby eliminating the need for the defendant to make a second appearance. The bill provides that the amount collected from a defendant who did not comply with requirements imposed during the deferral period is the difference between the special fee and the fees assessed for noncompliance.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 3585 amends the Code of Criminal Procedure to authorize a judge of a justice or municipal court, in issuing an order of deferral of further proceedings, rather than on dismissal of the complaint against a defendant, to impose on a defendant eligible for a suspension of sentence and deferral of final disposition a special expense fee in an amount not to exceed the maximum amount of the fine that could be assessed against the defendant as punishment for the offense. The bill authorizes the special expense fee to be collected at any time during the deferral period and requires the amount collected to be credited toward the amount of any fine imposed on a defendant who does not present satisfactory evidence that the defendant complied with certain requirements during the deferral period.

### **EFFECTIVE DATE**

September 1, 2009.